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S E C R E T SECTION 01 OF 03 BEIJING 023736

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SUBJECT: CHEN YUNLIN RAISES TAIWAN CONSTITUTION CONCERNS
WITH AMBASSADOR

Classified By: Ambassador Clark T. Randt, Jr. Reasons 1.4 (b/d).

Summary

¶1. (S) Taiwan Affairs Office (TAO) Director Chen Yunlin told the Ambassador that China remains concerned about Chen Shui-bian's plans to pursue de jure independence for Taiwan through constitutional reform, despite his current political troubles. TAO's Chen asserted that Chen Shui-bian will take advantage of U.S. "acceptance" of the termination of the National Unification Council and Guidelines to try to win U.S. approval for his notion of "freezing" the current Republic of China (ROC) Constitution. TAO's Chen described the purported contents of four different DPP draft constitutions, stressed that constitutional reform is a dangerous process and asked that China and the United States continue to communicate on the issue. The Ambassador noted that President Bush has been very clear that the United States opposes unilateral changes to the cross-Straits status quo by either side. Maintaining open channels of communication on this issue is in the interest of all sides, the Ambassador added.

Concerns About Constitution Moves

¶2. (S) TAO Director Chen Yunlin described China's concerns about Chen Shui-bian's plans to pursue constitutional reform in Taiwan during a November 9 meeting with the Ambassador. TAO's Chen expressed appreciation for the good reception he had during his September visit to Washington, but said he is concerned that many U.S. officials appeared to believe that Chen Shui-bian would be unable to pursue constitutional reform because of his current political troubles. U.S. officials mentioned that Chen Shui-bian had given assurances that he would not press constitutional reform and said they doubted that, in his weakened political state, Chen Shui-bian could get any proposals through the Legislative Yuan (LY). Shortly after the trip, however, Chen Shui-bian announced publicly that he intended to push constitutional reform and, as part of this process, to initiate discussion of the issues of national territory and title. In response, the United States made its position clear and the Mainland issued a serious warning to Chen Shui-bian. As a result, Chen Shui-bian's attempt to provoke a conflict across the Strait failed, TAO's Chen stated.

¶3. (S) The Mainland understands that Chen Shui-bian and the DPP have at least four drafts for a Constitution, TAO's Chen continued. TAO's Chen passed a document that contains brief

descriptions of each of the four drafts (texts at para 10), but said that he wanted to discuss the fourth one, the so-called "Second Republic" draft. Chen Shui-bian organized a group of scholars who support independence to sponsor a "Second Republic" constitution, modeled on the French Second Republic Constitution. This draft, according to TAO's Chen, denies that Taiwan is an indivisible part of China, denies that there is only one China in the world, denies the historical fact that Taiwan has never existed as a separate country and misquotes the UN Charter. This is an effort to trick the international community into supporting the draft, TAO's Chen insisted. Chen Shui-bian believes that the Mainland might even accept this kind of Constitution, he said.

Beware of a Freeze

14. (S) TAO's Chen said he wants to emphasize that DPP insiders and Chen Shui-bian view the "U.S. acceptance" of the "termination" of the National Unification Council and National Unification Guidelines (NUC, NUG) earlier this year as a sign that the United States will accept a "Second Republic" constitution that would involve "freezing" the ROC Constitution. If the word "freeze" is used, the United States can be convinced that the old constitution technically still exists, while Chen Shui-bian will tell others that the old constitution no longer exists. TAO's Chen said that Chen Shui-bian boasted about abolishing the NUC and the NUG in his recent interview with the Financial Times. "Just like that, the fifth no of Chen Shui-bian's original five noes commitment was gone," TAO's Chen commented.

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15. (S) Some U.S. opinion leaders have intimated that because Chen Shui-bian is now in the middle of a corruption scandal, he will back off from constitutional reform and focus on protecting himself, TAO's Chen said. China believes that because Chen Shui-bian needs to protect himself he must pursue constitutional reform. Facts have proven that Chen Shui-bian has no credibility, TAO's Chen continued, characterizing Chen Shui-bian as someone who cares nothing about the interests of others, including the United States, and calling him "a political hooligan."

16. (S) Originally, Chen Shui-bian planned to push Constitutional reform at the end of 2006, but now he wants to use the opportunity of the U.S. election season to create a crisis. This will undermine peace and stability across the Taiwan Strait and in East Asia and will undermine the increasing cooperation between the United States and China on a range of issues. The Chinese Government is already making preparations for the worst case, but China and the United States can not allow a crisis to occur.

China Seeks Stability

17. (S) TAO's Chen stated that China wants to assure the United States that it will adhere to its consistent guidelines and principles in dealing with Taiwan. China supports stability, peace and development across the Strait and has taken many measures this year to promote cross-Strait exchanges and ties. China does not care whether Chen Shui-bian remains in power or who comes to power, TAO's Chen asserted, claiming that this is for people in Taiwan to decide. China's policy will not change, but if any leader in Taiwan pursues de jure independence, "China will struggle against this until the end," he stated.

18. (S) China and the United States should maintain close communication on Taiwan developments from now until 2008, Chen urged, as "many things will be going on" during that time. He hopes that the United States will pay close attention to Taiwan and not send any wrong signals or cause

Taiwan authorities to misunderstand the U.S. position. According to Tao's Chen, the Taiwan authorities believe that since the United States accepted the possibility of constitutional changes as long as they do not touch on sovereignty or territorial issues, the Taiwan authorities believe there is a green light to proceed. They will say they are not touching on these issues, but in the end the constitution will be fundamentally altered, he continued. The United States and China need to prevent opportunities for that "troublemaker" Chen Shui-bian to provoke a new crisis. This kind of behavior will be dangerous, TAO's Chen concluded.

¶9. (S) The Ambassador noted that President Bush has been very clear in stating his opposition to unilateral changes to the cross-Strait status quo by either side. Maintaining open channels of communication on this issue is in the interest of all sides, the Ambassador stated.

Four Draft Constitutions

¶10. (S) Following is an informal translation of a TAO document describing different constitutional variants.

Begin text.

The first draft openly declares the establishment of the Republic of Taiwan, defines the territory of Taiwan plus Penghu, Kinmen, Matsu and their other islands as the area of national authority, and is essentially a constitution for Taiwan independence.

The second draft declares that Taiwan is a democratic republic named the Republic of China, incorporates the "two state theory," declares that any political relationship between the PRC and ROC must be approved by a referendum of the Taiwan people and is equivalent to a "ROC equals Taiwan" and a "two state theory" constitution.

The third draft abolishes the concept of "one country, two regions" and the goal of national unification. It amends the current constitution, would eliminate all current references to the Mainland, indirectly limits the domain of the

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traditional territory of China and lowers the threshold for holding a national referendum. This draft, while called an amendment to the constitution, is essentially the establishment of a new constitution that eliminates all connections to the Mainland.

The fourth draft is the so-called "Second Republic" constitution. The draft rejects the notion that Taiwan has been a part of China since ancient times and that it was returned to China in 1945. It promotes the separatist "two state theory" and "one country on each side of the Strait," misquotes the UN Charter and attempts to change the cross-Strait status quo.

End text.

Randt